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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re A.G., a Person Coming
Under the Juvenile Court Law.

B302025

(Los Angeles County
Super. Ct. Nos.
19CCJP05914,
19CCJP05914A)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and
Respondent,

v.

A.G.,

Defendant and
Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Brett Bianco, Judge. Affirmed.

Elena S. Min, under appointment by the Court of Appeal,
for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, and Melania Vartanian, Deputy
County Counsel, for Plaintiff and Respondent.

INTRODUCTION

Father A.S. appeals following the court's exercise of jurisdiction over four-month-old A. under Welfare & Institutions Code section 300, subdivision (b).¹ Father contends the evidence was insufficient to support the juvenile court's finding that domestic violence between father and A.'s mother, S.B., put A. at risk. Father also asserts that because there was insufficient evidence of domestic violence, the juvenile court erred by issuing a disposition order that required parents to temporarily live apart and father to attend a domestic violence program.

We affirm. Substantial evidence supports the juvenile court's finding that parents were in a physical altercation in which father pushed or moved mother's body while A. was nearby and upset by parents' fighting. Substantial evidence of domestic violence also supports the court's disposition order.

FACTUAL AND PROCEDURAL BACKGROUND

A. Detention

Four-month-old A. came to the attention of the Los Angeles County Department of Children and Family Services (DCFS) on July 28, 2019, when DCFS received a report, apparently from the police, alleging possible abuse or neglect of A. The caller reported

¹All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

that father and mother had been arguing by text message all day, and father threatened to leave with A. When mother arrived at the family's apartment where father was home with A., they argued. According to mother, father grabbed her by her collar and dragged her, causing her to fall; he then attempted to push her out of the apartment with his feet. Father then left the apartment. A. was on the bed of the studio apartment when this occurred. Mother reported that she and father had argued before, but this was the first time an argument became physical.

A children's social worker (CSW) met with mother and A. on August 7. The CSW noted that A. appeared well groomed with no visible marks or bruises. Mother told the social worker that nothing the police officers said about the July 27² incident was true. She said what really happened was that she and father were at Jack in the Box with A., and mother was drinking a soda. Father got upset, because he wanted mother to stop drinking soda due to her health issues. Mother stated that they argued, father "started acting strange," and he "told mother to 'burn in hell bitch' and left." Mother reported that father had said similar things to her before, but not in public.

Father walked home, and mother drove A. home. When she arrived at the apartment, mother left A. with father and went for a drive. She was upset when she discovered that father had changed the password on their Tesla and she could not access the car's main control center. When Mother got home, father was preparing to take A. to maternal great-grandmother's house; A.

²The record is inconsistent regarding whether this incident occurred on July 27 or 28, but father later clarified that it occurred on July 27.

was in his stroller. Mother tried to stop father from leaving because she thought he might not come back. Father “pushed her to move her to one side. Mother denied father pushed her with great force and said he used his body to push past her.” Mother dropped to the floor and “father placed his hand on mother’s shoulder to keep her down so that he could leave.” A. was “present in his stroller and was crying.”

Mother said father exited the building and she “followed him because she wanted him to stay and took father’s glasses from his face to keep him from leaving,” because “she knows father relies on them and would not be able to leave in the car.” When mother followed father outside, the glass door to the building closed and they were locked out; A. was still inside the apartment and they could hear him crying. Mother panicked and kicked the door, breaking the glass. Meanwhile, father walked away to buy a cell phone charger so he could call the building manager. Mother “said she called law enforcement out of anger and because she was upset with father.” Mother said she told the officers things that were not true because she was enraged at the time.

Mother told the CSW that she and father had been in a relationship for a year after meeting on a dating app. They moved in together after one to two weeks of dating, and she became pregnant within a month. She characterized her relationship with father as “wonderful and amazing.” Mother stated that she did not understand why DCFS was investigating, because their argument was not a big deal.

The CSW interviewed father the same day. He said he and mother were happy in their relationship. He reported that when they argued, sometimes they discussed living apart and mother

had threatened to take A. from him. Father said that on July 27, he and mother argued at Jack in the Box about mother drinking soda. He walked home and mother drove A. home. Mother then left in the Tesla, and father attempted to use the Tesla app to find her location, but discovered that mother had turned off the app from the car. Mother texted father and said she was going to ram the car into a wall. Father managed to access the car's app and found that it was traveling at a high speed.

Father decided to take A. to maternal great-grandmother's house that day "because he is not able to care for the baby alone and needs help." Mother returned home and said he could not leave. Father walked toward his bike to leave, but "mother grabbed the bike and slammed it." Father tried to walk out, but mother blocked the door, threw a soda can at him, began screaming, and tried to grab father. A. was present in the stroller. Father reached around mother to open the door and mother slid to the ground and sat against the door to keep it closed, "but father managed to get out." As father went outside, mother grabbed his glasses; he said this was the second time mother had grabbed his glasses during an argument. The building door closed and they were locked out. Father thought a bystander may have called law enforcement. He also said it was not the first time mother has tried to prevent him from leaving during an argument.

The CSW spoke with paternal grandmother, who was visiting from New York, on August 15. Paternal grandmother said mother would text her about "quarrels" with father, and the texts worried her. Mother texted paternal grandmother 40-50 times on July 27 regarding the incident, which prompted paternal grandmother to come from New York the following day

“to figure out what was going on.” Paternal grandmother knew that the police had been called, and thought a neighbor had complained. However, paternal grandmother also said that “mother had no regrets regarding police involvement as she is the type to call police often.” Paternal grandmother was not aware of any physical fights between mother and father, but she expressed concern that A. hears the arguments between mother and father.

On August 20, the CSW spoke with a Los Angeles Police Department detective about the July 27 incident. The detective reported that mother “told the officers one thing in their initial report and when he talked to mother a few days later, mother reported she had exaggerated what she had first said.” Although mother initially reported that father had pulled her by the shirt and pinned her down with his knee, mother later said she “remembered things differently.” The detective also noted that “father was vocal about mother being the one with the issues, not him.” The detective “stated that mother and father were blaming each other, but now that they are rekindling, they are both recanting and minimizing.”

On September 6, the juvenile court approved a removal order for A. On September 9, the CSW met with sheriff’s deputies to obtain assistance with the removal order, and the deputies mentioned that they had been called to the family residence a week earlier. Deputies reported that when they arrived, mother was upset and did not want father to leave the home. When the CSW asked mother and father about that incident, they denied that anything happened, and father said he had contacted law enforcement because his car had been vandalized. DCFS detained A. pursuant to the removal order; he was placed with maternal great-grandmother on September 11.

On September 10, the CSW met with maternal great-grandmother; maternal grandmother was also present. Maternal great-grandmother said she did not know much about the issues between mother and father, but mother had said that father could be verbally abusive, and mother had called law enforcement in the past. Maternal great-grandmother was not aware of any physical altercations between mother and father. She was aware that parents had another argument the previous week, and father had called law enforcement. She said that “last week father broke things including mother’s camera which father threw at the carport and damaged their car.”

The CSW spoke with maternal grandmother, who stated that she and mother are not particularly close. Regarding the July 27 incident, maternal grandmother said mother reported that father manhandled her, threw a coffee mug at her, and spit on her. Maternal grandmother said she saw pieces of a broken coffee mug behind the television, and she believed that A. had been on the bed just in front of the television at the time. She also stated that a week before the interview, father called law enforcement and he “broke mother’s lap top [*sic*], took mother’s camera and tried to leave with [*sic*] because he thought mother had dented his car. Father called law enforcement to get back at mother for calling law enforcement previously.

When CSW interviewed mother on September 10,³ mother said she had changed her statements regarding the July 27

³The detention report states that the interview was September 9, but the circumstances suggest this interview occurred the following day, September 10, as the CSW was

incident because she did not want father to get in trouble. She told the CSW that the incident had indeed been physical, with father trying to move her out of the way and grabbing her arm or shoulder. Mother also said that when she and father drove to meet with the CSW, “father was upset and threw their wedding rings out[] of the car window on the 10 freeway.” She also told the CSW about the most recent incident with father, which occurred on August 2. The detention report stated that parents got into an argument that “escalated.” Father grabbed mother’s laptop computer, “threw it, and then began to kick it around.” Father also grabbed mother’s camera; they struggled over it and mother fell backward, hitting her head on a wall and bruising her back. “Father then threw the camera at the carport,” called law enforcement, and accused mother of damaging his car. A. was present when this altercation occurred. Mother also said that father blamed her for A.’s detention.

In its detention report, DCFS expressed concern over the parents’ domestic violence, mother’s mental health, and mother’s use of pain medication, possibly without a prescription. DCFS noted, “There are concerns with father’s ability to protect [A.]” because father was at work and did not observe mother with A., and because “[f]ather did not appear to have an understanding of the underlying concerns related to . . . mother’s aggressive demeanor towards him in [A.’s] presence.” The report noted that during the course of the investigation, the parents had engaged in a second domestic violence incident, in which father broke mother’s belongings and law enforcement was called, all in A.’s

assessing maternal great-grandmother’s home as a placement for A.

presence. DCFS stated that the parents' conduct endangered A.'s physical and emotional well-being, and placed A. at high risk for future abuse and neglect.

On September 11, 2019, DCFS filed a juvenile dependency petition under section 300. In paragraphs a-1 and b-1, the petition alleged that mother and father had a history of engaging in violent altercations in A.'s presence, including the July 27 incident in which father pulled mother's shirt, held mother down, threw a coffee cup at mother, and spit on mother; and September 2, in which mother and father struggled over a camera, causing mother to fall. Paragraphs a-1 and b-1 also alleged that mother failed to protect A. by allowing father to have access to him, and that parents' actions placed A. at risk of harm. Paragraph b-2 alleged that mother had mental and emotional problems that rendered her incapable of caring for A., father failed to protect A. by allowing mother to have access to him, and parents' actions placed A. at risk of harm.

At the detention hearing on September 12, 2019, parents denied the allegations in the petition. The court found a prima facie case under section 300. The court detained A. from both father and mother, and ordered separate monitored visitation for mother and father.

B. Jurisdiction and disposition

A jurisdiction/disposition report filed October 8, 2019 stated that A. remained with maternal great-grandmother. A DCFS investigator interviewed father, who again denied the allegations in the petition. Father admitted that mother had taken his glasses during arguments. On July 27, when mother blocked the door as father tried to leave the apartment, he reached around her to grab the door handle, pulled the door open, and walked

out. Father said he did not push or pull mother, hold her down, throw a coffee cup at her, or spit on her. Father discussed being locked out of the apartment building, and said that A. was crying inside because mother “was screaming to prevent me from leaving.”

Regarding the September 2 incident, father said he only called law enforcement to report that his car had been damaged. He said that when they arrived, mother was on the phone with her family and she “was a little tearful.” Father did not answer questions about the camera. Father reported that he and mother were still together, and they were dedicated to making their relationship work. Father had signed up to begin counseling at a domestic violence prevention center. DCFS deemed A.’s future risk of abuse or neglect to be “moderate.”

An addendum report filed October 23, 2019 included information from an interview with mother on October 7. Mother told a DCFS investigator that during the July 27 incident, “If anything physical happened it was on [sic] accident.” She said that she and father were tired and stressed, and they overreacted. Mother admitted taking father’s glasses from him. When the investigator asked mother if father spit on her, mother said that he “spit on the ground in my direction.” When asked if father threw a coffee mug at her, mother said that father was tossing the mug toward a basket and missed; he was not throwing it at her. When the investigator asked mother about the September 2 incident, mother said, “I don’t remember what was going on.” She also said father did not break her camera or cause her to fall.

A last-minute information filed October 24, 2019 attached the police report from the July 27 incident. The report stated

that mother said she and father had been fighting by text message, and father threatened to leave with A. Mother arrived at the apartment to find father gathering his belongings. The report stated, “Victim was in the door way [*sic*] when Suspect approached the Victim and grabbed the Victim by her t-shirt and hair. Suspect threw Victim to the ground next to the doorway causing the Suspect not to leave the apartment. Victim stated Suspect had her pinned to the ground with his left knee against her back not allowing the Victim to get up.” After mother got up, father threw a coffee cup in her direction. Mother called 911, but told officers that she did not want to press charges. The police report noted that mother had no visible injuries.

At the adjudication hearing on October 24, 2019, the court sustained paragraph b-1 of the petition regarding parents’ domestic violence, as amended to remove some allegations of violence. As amended, paragraph b-1 stated in relevant part, “On 07/28/2019 [*sic*], the father pushed the mother and placed the father’s hands on the mother’s shoulders to prevent the mother from leaving. The child’s mother failed to protect the child in that the mother allowed the father to reside in the child’s home and have unlimited access to the child.” The court dismissed paragraphs a-1 and b-2. The court remarked, “I think there is a lot of minimization going on” regarding parents’ arguments. The court thus found A. to be a person described by section 300, subdivision (b).

Discussing disposition, father’s counsel asked that A. be released to both parents, but said if that were not possible, he would be willing to move out of the family home. Father was opposed to the case plan; he was participating in parenting

classes, but he wanted to address domestic violence in individual counseling only.

The court held that A. could be released to parents, “conditioned upon mother and father not living together at this time.” The court ordered both parents to complete a domestic violence program, attend conjoint counseling, and participate in family preservation services. The court gave DCFS discretion to allow father to return to the family home after he had enrolled in services and “the department is satisfied that that will not present a safety concern.”

Father timely appealed.

DISCUSSION

On appeal, father challenges both the jurisdiction finding and disposition order. “In reviewing the jurisdictional findings and the disposition, we look to see if substantial evidence, contradicted or uncontradicted, supports them. [Citation.] In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court’s determinations; and we note that issues of fact and credibility are the province of the trial court.” (*In re R.T.* (2017) 3 Cal.5th 622, 633.)

A. Jurisdiction finding

Father asserts that there was insufficient evidence to support the juvenile court’s jurisdiction finding. Section 300, subdivision (b)(1) permits the assertion of jurisdiction where “the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child. . . .” “Exposure to domestic violence may serve

as the basis of a jurisdictional finding under section 300, subdivision (b).” (*In re R.C.* (2012) 210 Cal.App.4th 930, 941.)

There is sufficient evidence to support the juvenile court’s jurisdiction finding. The sustained allegation, as amended, stated that father pushed mother and placed his hands on mother’s shoulders to prevent her from moving. This language reflected mother’s statements to the CSW on August 7, in which mother said that on July 27 father “used his body to push past her,” and after she dropped to the floor, “father placed his hand on mother’s shoulder to keep her down so that he could leave.” On September 10, mother again told the CSW that the argument with father got physical when he moved her away from blocking the apartment door. Maternal grandmother said mother reported that father had “manhandled” her on July 27. The police report from July 27 stated that father grabbed mother and pinned her down with his knee. Even father admitted that the July 27 altercation became physical, with mother blocking the apartment door with her body, yet father “managed to get out.” Father also told the social worker that it was not the first time that mother had tried to physically prevent him from leaving. Further, the evidence showed that A. was nearby as this occurred and crying as he heard his parents argue. As a result of parents’ focus on arguing with one another, they locked themselves out of the building, leaving A. alone inside their apartment. Substantial evidence supports the court’s finding that there was a domestic violence incident that placed A. at risk.

Father asserts that mother’s “story” has “changed numerous times,” suggesting she is not a reliable witness. On appeal, however, we defer to the lower court on issues of credibility of the evidence and witnesses. (*In re Albert T.* (2006)

144 Cal.App.4th 207, 216.) Nonetheless, even in mother's revised version of facts, she told the CSW that father pushed her out of the way as he was leaving the apartment; father also told the CSW that mother blocked the door with her body but he got past her. Father also asserts that mother was the aggressor, demonstrated by her blocking the door to prevent father from leaving and taking his glasses from his face to render him unable to drive. We agree that the evidence suggests that father may also have been a victim of domestic violence. But that fact supports, rather than undermines, the court's findings that domestic violence was present in the home and placed A. at risk.

Father compares this case to *Jennifer A. v. Superior Court* (2004) 117 Cal.App.4th 1322, in which there was an alleged "domestic violence" incident that involved the mother having a heated argument with the father while they were speaking to each other by phone. The Court of Appeal stated, "A heated argument over the telephone, without more, is not domestic violence, and characterizing it as such trivializes true acts of domestic violence." (*Id.* at p. 1342.) Father asserts that similarly, he and mother had "verbal spats" that "are not evidence of domestic violence." We disagree that an incident involving pushing, screaming, getting locked out of the building with a crying baby inside, and a call to law enforcement amounts to nothing more than a "verbal spat." *Jennifer A.* is inapposite.

Father also contends the July 27 argument was an isolated incident, and there was no evidence of ongoing violence as required under section 300, subdivision (b). Indeed, "domestic violence between a child's parents may support the exercise of jurisdiction only if there is evidence that the violence harmed the children or placed them at risk of harm, and 'the violence is

ongoing or likely to continue.” (*In re M.W.* (2015) 238 Cal.App.4th 1444, 1453.) However, the evidence here showed that father and mother got into a second altercation on September 2—while the DCFS investigation was pending. In that incident, father kicked mother’s laptop, broke her camera, and possibly damaged their car, resulting in another call to law enforcement. Moreover, as the juvenile court noted, father and mother minimized the issue of domestic violence throughout the investigation, rather than acknowledging that they had a problem that affected A.’s wellbeing. Thus, the evidence supported the court’s jurisdiction finding based on the domestic violence between parents.

B. Disposition order

Father also challenges the court’s disposition order, which required parents to live separately and father to participate in a domestic violence program for abusers. He asserts there was insufficient evidence of domestic violence to support the court’s order, and again he contends that the evidence showed mother was the aggressor. Because we have found sufficient evidence supported the court’s jurisdiction finding as to domestic violence on July 27 between the parents, including evidence that father pushed mother, sufficient evidence also supports the disposition order.

DISPOSITION

The juvenile court's jurisdiction finding and disposition orders are affirmed.

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COLLINS, J.

We concur:

MANELLA, P. J.

CURREY, J.